REMARKS

Claims 1 through 23 and 27 through 32 are pending in this application. Claims 1, 16 through 19, 22, 23, and 27 through 32 have been amended. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, page 27, lines 10 through 21 of the written description of the specification. Applicants further submit that the present Amendment does not generate any new matter issue.

Claims 1 through 18, 27 through 29, 31, and 32 (presumably intending claims 1 through 23 and 27 through 32) were rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Strietzel* (U.S. 2001/0051517) in view of *Reese* (U.S. 2003/0191685).

This rejection is respectfully traversed.

There are fundamental differences between the claimed inventions and the applied references that undermine the obviousness conclusion under 35 U.S.C. §103(a). Specifically, and most compelling, none of the applied references taken singly or in combination disclose or remotely suggest the methods, systems, and apparatuses defined by independent claims 1, 16, 19 27, 29, 31, and 32, particularly the following claim features:

> "generate a promotion message comprising an **invitation to be reminded prior to a start of an event scheduled to start at a defined start time** based on said promotion message request…cause, at least in part, sending by said promotion server, of **said promotion message including said invitation to one or more communication terminals** through at least one communication network…cause, at least in part, **sending of a reminder for said event to said accepting communication terminal based on said defined start time included in said promotional message** through said first communication network via said promotion server, wherein said event manager is separate from the one or more communication terminals" (emphasis added) as recited in amended claim 1 and similarly recited in claims 16, 31, and 32; and

> "receiving, by a communication terminal, a promotion message from a promotion server, **the promotion message including an invitation to be reminded prior to a start of an event scheduled to start at a defined start time**; causing, at least in part, transmission of an acceptance signal for said invitation based on information in at least one of a calendar or a list of scheduled events residing in said communication terminal; **receiving, by said communication terminal a reminder signal from said promotion server based on said defined start time included in said promotional message**" (emphasis added) as recited in method claim 29 and similarly recited in claims 19 and 27.

Applicants stress that neither *Strietzel* nor *Reese* discloses or suggests the concepts of (1) sending or receiving a "promotional message comprising an invitation to be reminded prior to a start of an event scheduled to start at a defined start time;" and (2) sending or receiving "a reminder…based on said defined start time," as in the claimed inventions.

Specifically, each of claims 1, 16, 19, 27, 29, 31, and 32 requires that the promotional message "comprises an invitation to be reminded prior to a start of an event scheduled to start at a defined start time" **and** further requires that the reminder is "based on said defined start time included in said promotional message." Again, these claim features are neither disclosed nor suggested by the applied prior art.

Indeed, the Examiner recognized (page 3 of the Office Action) that *Strietzel* does not disclose or suggest "promotion message associated with an event having a defined start time." Going one step further, it is apparent that *Strietzel* also does not disclose or suggest "**said promotion message including said invitation to one or more communication terminals**" wherein the invitation is for being "**reminded prior to a start of an event scheduled to start at a defined start time**." Nor does *Strietzel* disclose or suggest "**sending a reminder for said event** to said accepting communication terminal **based on said defined start time included in said promotional message**." As one having ordinary skill in the art would have recognized,

the defined start time in question refers to the defined start time in the promotion message that was accepted.

The Examiner asserted that *Reese* discloses or suggests "promotional message associated with an event having a defined start time," citing paragraphs [0015] and [0016] of *Reese*, which are reproduced below:

> "[0015] According to exemplary embodiments, targeted messages are sent to **users or consumers at the time(s) and destination(s) they designate**. For this purpose, a user provides information describing a desire to **receive a notification message associated with an event at a particular time(s) and destination(s)**, e.g., **by entering such information** via a website associated with the event or via an e-mail or wireless message to an address associated with the event.
>
> [0016] The user is contacted at the **appropriate time and destination** with a message containing information associated with the event. This information may include a reminder about the event and/or information regarding a product, service, or other event(s) associated with the event. Once the user acts on the message or its content, a virtual data exchange commences, and an interactive forum is created." (Emphasis added).

However, even with the above-quoted evulgations, the chasm between the claimed inventions and *Reese* remains unbridged. This is because *Reese* clearly does **not** disclose or suggest "**said promotion message including said invitation to one or more communication terminals,"** wherein the invitation is for being "**reminded prior to a start of an event scheduled to start at a defined start time**" (emphasis added), much less sending or receiving a "**reminder for said event** to said accepting communication terminal **based on said defined start time included in said promotional message**." (Emphasis added). Instead, *Reese* specifies that a **user or consumer designates a time and destination for receiving a targeted message**. The user in *Reese* provides the information and a desire to receive a notification message associated with an event, the notification message to be received at a particular time and

destination that the user designates. The user is then contacted at the designated time and destination with the message.

The Examiner simply failed to provide the requisite factual basis to support the ultimate legal conclusion of obviousness faced with claims that require setting up a reminder for an event based on a defined start time included in a promotional message including an invitation for a reminder prior to a start of an event scheduled to start at a defined start time. Armed only with a quiver empty of facts, the Examiner commits legal error on page 21 of the Office Action by cavalierly dismissing an affirmative claim limitation stating that "the content of the advertisement message is non-functional descriptive material" and "it has no effect on the scope of the invention, it carries no patentable weight in the claim." The Examiner is legally wrong.

In order for printed matter to distinguish a claimed invention over prior art, there must be a new and unobvious functional relationship between the printed matter and the substrate on which it appears. *See In re Ngai*, 367 F.3d 1336, 1338, 70USPQ2d 1862, 1864 (Fed. Cir. 2004); *In re Gulack*, 703 F.2d 1381, 1386, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Miller*, 418 F.2d 1392, 1396, 164 USPQ 46, 49 (CCPA 1969). Similar to printed matter, functional information in the promotional message is legally accredited patentable weight, because the content of the promotional message is clearly functional in that the "defined start time" of the promotional message is used for sending a "reminder for said event to said accepting communication terminal **based on said defined start time included in said promotional message**." (Emphasis added). It is, therefore, an integral and functional part of the claimed invention.

In attempting to defend the indefensible, the Examiner went further astray by asserting that *Reese's* reminder, which is clearly **defined by the recipient**, discloses or suggests the above argued claim feature. The Examiner then asserted that "the claim language does not foreclose a

user requesting the reminder in claim 1, nor a user sending/programming their own reminder in claims 16, 19, 27, 29, 31, or 32 which only disclose sending or receiving a reminder." The Examiner's reasoning does not withstand scrutiny, because it clearly and incorrectly ignores the use of the "defined start time" in the remainder of the claim, i.e., sending of the "reminder for said event to said accepting communication based on said defined start time included in said promotional message." Clearly, none of the applied references discloses or suggests this claim feature.

It is therefore apparent that even if the applied references are combined as proposed by the Examiner, and Applicants do not agree that the requisite realistic motivation has been established, the inventions defined in independent claims 1, 16, 19, 27, 29, 31, and 32 and all claims depending therefore would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir. 1988). Applicants therefore submit that the imposed rejections of independent claims 1, 16, 19, 27, 29, 31, and 32 the claims that depend therefrom under 35 U.S.C. §103(a) are not factually or legally viable and, hence, solicit withdrawal thereof.

Based upon the foregoing, it is apparent that the imposed rejections have been overcome, and that all active claims are in condition for immediate allowance. Favorable consideration therefore is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at 703-882-7127 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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March 26, 2010
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